



**NAMIBIA UNIVERSITY  
OF SCIENCE AND TECHNOLOGY**

**FACULTY OF COMMERCE, HUMAN SCIENCES AND EDUCATION**

**DEPARTMENT OF SOCIAL SCIENCES**

<b>QUALIFICATION: BACHELOR OF PUBLIC MANAGEMENT</b>	
<b>QUALIFICATION CODE: 07BPMN</b>	<b>LEVEL: 5</b>
<b>COURSE CODE: LPM521S</b>	<b>COURSE NAME: LAW FOR PUBLIC MANAGERS 1B</b>
<b>SESSION: NOVEMBER 2025</b>	<b>PAPER: THEORY</b>
<b>DURATION: 3 HOURS</b>	<b>MARKS: 100</b>

<b>SUPPLEMENTARY / SECOND OPPORTUNITY EXMINATION QUESTION PAPER</b>	
<b>EXAMINER(S)</b>	MRS E.WABOMBA
<b>MODERATOR:</b>	Ms. K. CLAASEN

<b>INSTRUCTIONS</b>
<ol style="list-style-type: none"><li>1. Answer ALL the questions.</li><li>2. Write clearly and neatly.</li><li>3. Number the answers clearly.</li></ol>

**PERMISSIBLE MATERIALS**

1. Examination paper
2. Examination script
3. CHAPTER 3 OF THE NAMIBIAN CONSTITUTION

**THIS QUESTION PAPER CONSISTS OF 4 PAGES** (Excluding this front page)

## **QUESTION 1**

INDICATE WHETHER THE FOLLOWING STATEMENTS ARE TRUE OR FALSE. NO NEED TO MOTIVATE.

- 1.1 A right to liberty is a right to be left alone meaning it's absolute.
- 1.2 The right to equality means so long as the circumstances are not the same, all individuals are not to be accorded the same treatment.
- 1.3 The right to a fair trial applies only to the accused person.
- 1.4 Article 12 (e) requires the state to give an accused person adequate facilities to prepare their case.
- 1.5 The underlying principle of the fact that the legislation must be published is that it must be made known to the public
- 1.6 Guidelines used by the courts to determine whether the presumption is done away with by implication, is to find out if the retro-effect does not affect the vested right or it grants a benefit.
- 1.7 Entrenched provision need 50% of members of parliament to be present and 50% of cabinet.
- 1.8 Delegated legislation derives from person or bodies which are vested with subordinate legislative powers under the subordinate legislation.
- 1.9 Semantic guidelines are based on how letters are formulated in the statutes.
- 1.10 Foreign law is not as authoritative during interpretation of legislation as compared to international law.

***(EACH TWO MARKS)***

***[20 ]***

## QUESTION 2

Mr. Keagile appeared in court in June 2012 on a charge of contravening the Internal Security Act. The said Internal Security Act was repealed in September 2012 by a new Internal Security Act.

- 2.1 Under which Act will Mr Keagile's trial take place? Give a reason for your answer. {4}
- 2.2 In the language dimension of the interpretation process certain basic principles must be followed. Explain these principles. {5}
- [9]

## QUESTION 3

Mr. Sipho, an adult male and a South African National, on holiday in Namibia with his wife, was accused of domestic violence towards his wife and of raping her in their hotel room. At the trial he was not told that he may have representation. Further he requested to see the medical documentation which was in the hands of the prosecution, which proved his violence towards his wife. To this the magistrate answered, that he had no such right, as he was a violent man who must be punished.

- 3.1 Which human rights have been infringed? {5}
- 3.2 Can Sipho's wife be forced to give testimony against her husband? Give a reason for your answer. {4}
- [9]

## QUESTION 4

If a provision in legislation, authorises an official or body to exercise a certain power or powers, the question arises whether s/he or it must give effect to the stipulation in the said provision strictly or whether s/he or it has a discretion to adapt the stipulations as the circumstances may from case to case require?

- 4.1 How can one arrive at an acceptable answer to this question?

[5]

## QUESTION 5

Ingrid Katumbu's son, Silas Shilongo, a grade 5 pupil and 12 years old, was removed from his mother's home without his mother's permission and taken to his grandfather's village to permanently herd and graze the grandfather's cattle and to assist his grandfather with chores in general around the homestead, leaving Silas no time to attend school. Identify the rights that have been infringed. [10]

## QUESTION 6

6.1 Magistrate Dirk Coetzee wants to interpret the common law rule with regards to the principle of natural justice. Can he use the rules of interpretation of statutes? Briefly explain. {2}

6.2 Identify (6) six differences between the text-based approach and the text-in-context approach? {12}  
[14]

## QUESTION 7

7.1 When would the courts be entitled to modify the meaning of a text and what method of interpretation would be used in each of the mentioned situations? {4}

7.2 A "Semi-Precious Stones Act" was promulgated by Parliament. Section 10 of the said Act makes it illegal to sell sodalite, a semi-precious stone found in northern Namibia. Further the said section lays down a penalty of 2 years imprisonment for anyone found guilty under this section. Mr. Shabangu, a tourist from South Africa, travels to a remote area in the north of Namibia and is offered a 5kg sodalite stone by Mr. Samuels. Mr. Shabangu buys the said stone. On his way back to Windhoek, Mr. Shabangu is stopped at the roadblock and the police officers find the sodalite and promptly arrest him for buying and being in possession of sodalite in terms of the above mentioned Act. At his trial, Mr. Shabangu, in his defence, states that the said section 10 of the said Act only prohibits the selling of sodalite and not the buying and possession thereof. The court nevertheless finds him guilty and imposes a one year prison sentence. Which rule under which interpretative method, did the court use to find him guilty? {2}

7.3 An enactment changes the common law crime of bigamy without expressly stating that it is doing away with the common law. Explain with due regard to a common law rule, how the new law will be interpreted. {5}

[11]

**QUESTION 8**

8.1 Identify five (5) characteristics of human rights. {5}

8.2 All human rights are absolute. Discuss this statement in detail. {9}

**[14]**

**QUESTION 9**

Identify two institutions in terms of the Namibian Constitution and any two Namibian non-governmental organisations that protect human rights and state how each protect such rights?

**[8]**

# Chapter 3 - Fundamental Human Rights And Freedoms

## Article 5 [Protection of Fundamental Rights and Freedoms]

The fundamental rights and freedoms enshrined in this chapter shall be respected and upheld by the Executive, Legislature and Judiciary and all organs of the Government and its agencies and, where applicable to them, by all natural and legal persons in Namibia, and shall be enforceable by the Courts in the manner hereinafter prescribed.

## Article 6 [Protection of Life]

The right to life shall be respected and protected. No law may prescribe death as a competent sentence. No Court or Tribunal shall have the power to impose a sentence of death upon any person. No executions shall take place in Namibia.

## Article 7 [Protection and Liberty]

No persons shall be deprived of personal liberty except according to procedures established by law.

## Article 8 [Respect for Human Dignity]

The dignity of all persons shall be inviolable.

1. In any judicial proceedings or in other proceedings before any organ of the State, and during the enforcement of a penalty, respect for human dignity shall be guaranteed.
2. No persons shall be subject to torture or to cruel, inhuman or degrading treatment or punishment.

## Article 9 [Slavery and Forced Labour {Labor}]

1. No persons shall be held in slavery or servitude.
2. No persons shall be required to perform forced labour {labor}.
3. For the purposes of this article, the expression "forced labour" shall not include:
  1. any labour required in consequence of a sentence or order of a Court;
  2. any labour required of persons while lawfully detained which, though not required in consequence of a sentence or order of a Court, is reasonably necessary in the interests of hygiene;
  3. any labour required of members of the defence force, the police force and the prison service in pursuance of their duties as such or, in the case of persons who have conscientious objections to serving as members of the defence force, any labour which they are required by law to perform in place of such service;
  4. any labour required during any period of public emergency or in the event of any other emergency or calamity which threatens the life and well-being of the community, to the extent that requiring such labour is reasonably justifiable in the circumstances of any situation arising or existing during that period or as a result of that other emergency or calamity, for the purpose of dealing with that situation;
  5. any labour reasonably required as part of reasonable and normal communal or other civic obligations.

## Article 10 [Equality and Freedom from Discrimination]

1. All persons shall be equal before the law.
2. No persons may be discriminated against on the grounds of sex, race, colour {color}, ethnic origin, religion, creed or social or economic status.

## Article 11 [Arrest and Detention]

1. No persons shall be subject to arbitrary arrest or detention.
2. No persons who are arrested shall be detained in custody without being informed promptly in a language they understand of the grounds for such arrest.
3. persons who are arrested and detained in custody shall be brought before the nearest Magistrate or other judicial officer within a period of forty-eight (48) hours of their arrest or, if this is not reasonably possible, as soon as possible thereafter, and no such persons shall be detained in custody beyond such period without the authority of a Magistrate or other judicial officer.
4. Nothing contained in Paragraph (3) shall apply to illegal immigrants held in custody under any law dealing with illegal immigration: provided that such persons shall not be deported from Namibia unless deportation is authorised by a Tribunal empowered by law to give such authority.
5. No persons who have been arrested and held in custody as illegal immigrants shall be denied the right to consult confidentially legal practitioners of their choice, and there shall be no interference with this right except such as is in accordance with the law and is necessary in a democratic society in the interest of national security or for public safety.

## Article 12 [Fair Trial]

1.
  1. In the determination of their civil rights and obligations or any criminal charges against them, all persons shall be entitled to a fair and public hearing by an independent, impartial and competent Court or Tribunal established by law: provided that such Court or Tribunal may exclude the press and/or the public from all or any part of the trial for reasons of morals, the public order or national security, as is necessary in a democratic society.
  2. A trial referred to in Paragraph (a) shall take place within a reasonable time, failing which the accused shall be released.
  3. Judgments in criminal cases shall be given in public, except where the interests of juvenile persons or morals otherwise require.
  4. All persons charged with an offence shall be presumed innocent until proven guilty according to law, after having had the opportunity of calling witnesses and cross-examining those called against them.
  5. All persons shall be afforded adequate time and facilities for the preparation and presentation of their defence, before the commencement of and during their trial, and shall be entitled to be defended by a legal practitioner of their choice.
  6. No persons shall be compelled to give testimony against themselves or their spouses, who shall include partners in a marriage by customary law, and no Court shall admit in evidence against such persons testimony which has been obtained from such persons in violation of Article 8 (2) (b).
2. No persons shall be liable to be tried, convicted or punished again for any criminal offence for which they have already been convicted or acquitted according to law: provided that nothing in this paragraph shall be construed as changing the provisions of the common law defence of "previous acquittal" and "previous conviction".
3. No persons shall be tried or convicted for any criminal offence or on account of any act or omission which did not constitute a criminal offence at the time when it was committed, nor shall a penalty be imposed exceeding that which was applicable at the time when the offence was committed.

## Article 13 [Privacy]

1. No persons shall be subject to interference with the privacy of their homes, correspondence or communications save as in accordance with law and as is necessary in a democratic society in the interests of national security, public safety of the economic well-being of the country, for the protection

of health or morals, for the prevention of disorder or crime or for the protection of the rights or freedoms of others.

2. Searchers of the person or the homes of individuals shall only be justified:
  1. where these are authorised by a competent judicial officer;
  2. in cases where delay in obtaining such judicial authority carries with it the danger or prejudicing the objects of the search or the public interest, and such procedures as are prescribed by Act of Parliament to preclude abuse are properly satisfied.

#### Article 14 [Family]

1. Men and women of full age, without any limitation due to race, colour {color}, ethnic origin, nationality, religion, creed or social or economic status shall have the right to marry and to found a family. They shall be entitled to equal rights as to marriage, during marriage and at its dissolution.
2. Marriage shall be entered into only with the free and full consent of the intending.
3. The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

#### Article 15 [Children's Rights]

1. Children shall have the right from birth to a name, the right to acquire a nationality and, subject to legislation enacted in the best interests of children, as far as possible the right to know and be cared for by their parents.
2. Children are entitled to be protected from economic exploitation and shall not be employed in or required to perform work that is likely to be hazardous or to interfere with their education, or to be harmful to their health or physical, mental, spiritual, moral, or social development. For the purposes of this paragraph children shall be under the age of sixteen (16) years.
3. No children under the age of fourteen (14) years shall be employed to work in any factory or mine, save under conditions and circumstances regulated by Act of Parliament. Nothing in this paragraph shall be construed as derogating in any way from Paragraph (2).
4. Any arrangement or scheme employed on any farm or other undertaking, the object or effect of which is to compel the minor children of an employee to work for or in the interest of the employer of such employee, shall for the purposes of Article 9 be deemed to constitute an arrangement or scheme to compel the performance of forced labour {labor}.
5. No law authorising preventive detention shall permit children under the age of sixteen (16) years to be detained.

#### Article 16 [Property]

1. All persons shall have the right in any part on Namibia to acquire, own and dispose of all forms of immovable and movable property individually or in association with others and to bequeath their property to their heirs or legatees: provided that Parliament may be legislation prohibit or regulate as it deems expedient the right to acquire property by persons who are not Namibian citizens.
2. The State or a competent body or organ authorised by law may expropriate property in the public interest subject to the payment of just compensation, in accordance with requirements and procedures to be determined by Act of Parliament.

#### Article 17 {...}

#### Article 18 [Administrative Justice]

Administrative bodies and administrative officials shall act fairly and reasonably and comply with the requirements imposed upon such bodies and officials by common law and any relevant legislation, and persons aggrieved by the exercise of such acts and decisions shall have the right to seek redress before a competent Court or Tribunal.

### Article 19 [Culture]

Every person shall be entitled to enjoy, practice, profess, maintain and promote any culture, language, tradition or religion subject to the terms of this Constitution and further subject to the condition that the rights protected by this article do not impinge upon the rights of others or the national interest.

### Article 20 [Education]

1. All persons shall have the right to education.
2. Primary education shall be compulsory and the State shall provide reasonable facilities to render effective this right for every resident within Namibia, by establishing and maintaining State schools at which primary education will be provided free of charge.
3. Children shall not be allowed to leave school until they have completed their primary education or have attained the age of sixteen (16) years, whichever is the sooner, save in so far as this may be authorised by Act of Parliament on grounds of health or other considerations pertaining to the public interest.
4. All persons shall have the right, at their own expense, to establish and to maintain private schools, or colleges or other institutions of tertiary education: provided that:
  1. such schools, colleges or institutions of tertiary education are registered with a Government department in accordance with any law authorising and regulating such registration;
  2. the standards maintained by such schools, colleges or institutions of tertiary education are not inferior to the standards maintained in comparable schools, colleges or institutions of tertiary education funded by the State;
  3. no restrictions of whatever nature are imposed with respect to the admission of pupils based on race, colour {color} or creed;
  4. no restrictions of whatever nature are imposed with respect to the recruitment of staff based on race or colour {color}.

### Article 21 [Fundamental Freedoms]

1. All persons shall have the right to:
  1. freedom of speech and expression, which shall include freedom of the press and other media;
  2. freedom of thought, conscience and belief, which shall include academic freedom in institutions of higher learning;
  3. freedom to practice any religion and to manifest such practice; d) assemble peaceably and without arms;
  4. freedom of association, which shall include freedom to form and join associations or unions, including trade unions and political parties;
  5. withhold their labour {labor} without being exposed to criminal penalties; g) move freely throughout Namibia;
  6. reside and settle in any part of Namibia;
  7. leave and return to Namibia;
  8. practice any profession, or carry on any occupation, trade or business.
2. The fundamental freedoms referred to in Paragraph (1) shall be exercised subject to the law of Namibia, in so far as such law imposes reasonable restrictions on the exercise of the rights and freedoms conferred by the said Paragraph, which are necessary in a democratic society and are required in the interests of the sovereignty and integrity of Namibia, national security, public order, decency or morality, or in relation to contempt of court, defamation or incitement to an offence.

### Article 22 [Limitation upon Fundamental Rights and Freedoms]

Whenever or wherever in terms of this Constitution the limitation of any fundamental rights or freedoms contemplated by this chapter is authorised, any law providing for such limitation shall:

1. be of general application, shall not negate the essential content, and shall not be aimed at a particular individual;
2. specify the ascertainable extent of such limitation and identify the article or articles on which authority to enact such limitation is claimed to rest.

### Article 23 [Apartheid and Affirmative Action]

1. The practice of racial discrimination and the practice and ideology of apartheid from which the majority of the people of Namibia have suffered for so long shall be prohibited and by Act of Parliament such practices, and the propagation of such practices, may be rendered criminally punishable by the ordinary Courts by means of such punishment as Parliament deems necessary for the purposes of expressing the revulsion of the Namibian people at such practices.
2. Nothing contained in Article 10 shall prevent Parliament from enacting legislation providing directly or indirectly for the advancement of persons within Namibia who have been socially, economically or educationally disadvantaged by past discriminatory laws or practices, or for the implementation of policies and programmes aimed at redressing social, economic or educational imbalances in the Namibian society arising out of past discriminatory laws or practices, or for achieving a balanced structuring of the public service, the police force, the defence force, and the prison service.
3. In the enactment of legislation and the application of any policies and practices contemplated by Paragraph (2), it shall be permissible to have regard to the fact that women in Namibia have traditionally suffered special discrimination and that they need to be encouraged and enabled to play a full, equal and effective role in the political, social, economic and cultural life of the nation.

### Article 24 [Derogation]

1. Nothing contained in or done under the authority of Article 26 shall be held to be inconsistent with or in contravention of this Constitution to the extent that it authorises the taking of measures during any period when Namibia is in a state of national defence or any period when a declaration of emergency under this Constitution is in force.
2. Where any persons are detained by virtue of such authorization as is referred to in Paragraph (1), the following provisions shall apply:
  1. they shall, as soon as reasonably practicable and in any case not more than five (5) days after the commencement of their detention, be furnished with a statement in writing in a language that they understand specifying in detail the grounds upon which they are detained and, at their request, this statement shall be read to them;
  2. not more than fourteen (14) days after the commencement of their detention, be furnished with a statement in writing in a language that they understand specifying in detail the grounds upon which they are detained and, at their request, this statement shall be read to them;
  3. not more than one (1) month after the commencement of their detention and thereafter during their detention at intervals of not more than three (3) months, their cases shall be reviewed by the Advisory Board referred to in Article 26 (5)(c), which shall order their release from detention if it is satisfied that it is not reasonably necessary for the purposes of the emergency to continue the detention of such persons;
  4. they shall be afforded such opportunity for the making of representations as may be desirable or expedient in the circumstances, having regard to the public interest and the interests of the detained persons.
3. Nothing contained in this article shall permit a derogation from or suspension of the fundamental rights or freedoms referred to in Articles 5, 6, 8, 9, 10, 12, 14, 15, 18, 19 and 21 (1)(a), (b), (c), and (e), or the denial of access by any persons to legal practitioners or a Court of law.

### Article 25 [Enforcement of Fundamental Rights and Freedoms]

1. Save in so far as it may be authorised to do so by this Constitution, Parliament or any subordinate legislative authority shall not make any law, and the Executive and the agencies of Government shall not take any action which abolishes or abridges the fundamental rights and freedoms conferred by this chapter, and any law or action in contravention thereof shall to the extent of the contravention be invalid; provided that:
  1. a competent Court, instead of declaring such law or action to be invalid, shall have the power and the discretion in an appropriate case to allow Parliament, any subordinate legislative authority, or the Executive and the agencies of Government, as the case may be, to correct any defect in the impugned law or action within a specified period, subject to such conditions as may be specified by it. In such event and until such correction, or until the expiry of the time limit set by the Court, whichever be the shorter, such impugned law or action shall be deemed to be valid;
  2. any law which was in force immediately before the date of Independence shall remain in force until amended, repealed or declared unconstitutional, it may either set aside the law, or allow Parliament to correct any defect in such law, in which event the provisions of Paragraph (a) shall apply.
2. Aggrieved persons who claim that a fundamental right or freedom guaranteed by this Constitution has been infringed or threatened shall be entitled to approach a competent Court to enforce or protect such a right or freedom, and may approach the Ombudsman to provide them with such legal assistance or advice as they require, and the Ombudsman shall have the discretion in response thereto to provide such legal or other assistance as he or she may consider expedient.
3. Subject to the provisions of this Constitution, the Court referred to in Paragraph (2) shall have the power to make all such orders as shall be necessary and appropriate to secure such applicants the enjoyment of the rights of freedoms conferred on them under the provisions of this Constitution, should the Court come to the conclusion that such rights or freedoms have been unlawfully denied or violated, or that grounds exist for the protection of such rights or freedoms by interdict.
4. The power of the Court shall include the power to award monetary compensation in respect of any damage suffered by the aggrieved persons in consequence of such unlawful denial or violation of their fundamental rights and freedoms, where it considers such an award to be appropriate in the circumstances of particular cases.

## PHOTO ALBUM

